

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Kenneth McCarter, et ux)
Dist. 1, Map 34A, Group A, Control Map 34A,) Trousdale County
Parcel 16.00, S.I. 000)
Residential Property)
Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$14,000	\$103,300	\$117,300	\$29,325

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 24, 2008 in Hartsville, Tennessee. In attendance at the hearing were Kenneth McCarter, the appellant, Bobby Satterfield, Trousdale County Assessor of Property, and Dwight Jewell, a member of the Trousdale County Board of Equalization.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 115' x 200' lot improved with a doublewide mobile home on a concrete foundation purchased in 2004, a detached garage and a utility building. Subject property is located at 40 Darrell Lane in Hartsville, Tennessee.

The taxpayer contended that subject property should be valued at \$75,000. In support of this position, the taxpayer argued that the current appraisal of subject land and mobile home does not achieve equalization as evidenced by the assessor's appraisals of other properties in the area. The taxpayer maintained that he purchased subject mobile home in 2004 for \$38,900. In addition, the taxpayer asserted that the various improvements are appraised at much higher values than his historical costs in 2004 and 2005.

The assessor contended that subject property should remain valued at \$117,300. In support of this position, the assessor introduced into evidence numerous property record cards to show that the \$41.02 per square foot rate used to value subject mobile home is consistent with the rates used to value other mobile homes. The assessor also took issue with the fact the taxpayer compared his lot with much larger tracts. The assessor stressed that larger tracts normally command significantly less per acre than individual lots such as the subject.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$117,300 based upon the presumption of correctness attaching to the decision of the Trousdale County Board of Equalization.

Since the taxpayer is appealing from the determination of the Trousdale County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the taxpayer's proof focused on a perceived lack of equalization as opposed to market value.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.¹ The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

With respect to the issue of market value, the administrative judge finds that the taxpayer's testimony was contradictory and therefore lacks probative value. For example, the taxpayer testified that he paid \$38,900 for the mobile home on April 7, 2004. Yet, the bill of sale referred to at the hearing indicates a total price of \$61,720 with \$58,950 reflecting the base price of the mobile home and only \$35.92 for "parts and set-up." The remainder of the price reflects taxes and fees. The taxpayer testified that the amount paid in excess of \$38,900 went towards removing an old house and hauling chert.

¹ See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

Respectfully, the administrative judge cannot even determine what the taxpayer paid for subject mobile home absent additional evidence. Moreover, there is nothing in the record concerning the cost of the concrete foundation. Finally, if set-up was not included in the base price the market cost surely exceeds \$35.92.

With respect to the garage and utility building, the taxpayer essentially testified that his historical costs were less than the \$9,949 and \$5,447 depreciated costs found on the property record card. For example, the taxpayer testified that the garage (sometimes referred to during the hearing as a pole barn) cost \$5,500-\$6,000 to construct in 2004. Absent additional evidence such as itemized historical building costs and current building costs, the administrative judge finds that insufficient evidence was introduced to establish the market value of the garage and utility building as of January 1, 2007, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$14,000	\$103,300	\$117,300	\$29,325

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

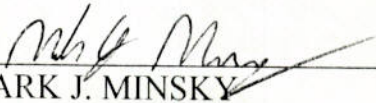
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 4th day of April, 2008.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Kenneth McCarter
Bobby Satterfield, Assessor of Property